

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton; and
Robert G. Taub

Jordanville Post Office
Jordanville, New York

Docket No. A2011-84

ORDER AFFIRMING DETERMINATION

(Issued January 11, 2011)

I. INTRODUCTION

On December 15, 2011, the Postal Service advised the Commission that it “will delay the closing or consolidation of any Post Office until May 15, 2012.”¹ The Postal Service further indicated that it “will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.” *Id.* It stated that the only “Post Offices” subject to closing prior to May 16, 2012, are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. *Id.* It affirmed that it “will not close or consolidate any other Post Office prior to May 16, 2012.” *Id.* at 2. Lastly,

¹ United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011 (Notice).

the Postal Service requested the Commission “to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.” *Id.*

The Postal Service’s Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service’s request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. § 404(d)(5).

On September 22, 2011, Linda Roberts (Petitioner) filed a petition with the Commission seeking review of the Postal Service’s Final Determination to close the Jordanville, New York post office (Jordanville post office).² The Final Determination to close the Jordanville post office is affirmed.

II. PROCEDURAL HISTORY

On September 26, 2011, the Commission established Docket No. A2011-84 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.³

On October 7, 2011, the Postal Service filed the Administrative Record with the Commission.⁴ On November 9, 2011, the Postal Service filed a revised version of the Administrative Record.⁵ The Postal Service also filed comments requesting that the Commission affirm its Final Determination.⁶

² Petition for Review received from Linda Roberts regarding the Jordanville, New York post office 13361, September 22, 2011 (Petition).

³ Order No. 874, Notice and Order Accepting Appeal and Establishing Procedural Schedule, September 26, 2011.

⁴ See United States Postal Service Notice of Filing, October 7, 2011.

⁵ See United States Postal Service Notice of Filing Modification to Administrative Record [Erratum], November 9, 2011. The Administrative Record includes, as Item No. 47, the Final Determination to Close the Jordanville, New York Post Office and Continue to Provide Service by Rural Route Service (Final Determination).

⁶ United States Postal Service Comments Regarding Appeal, November 16, 2011 (Postal Service Comments).

On October 18, 2011, members of the Concerned Citizens of Jordanville, New York submitted a petition with 25 names, objecting to the closure of the Jordanville post office.⁷

On December 1, 2011, the Public Representative filed a reply brief.⁸

III. BACKGROUND

The Jordanville post office provides retail postal services and service to 59 post office box customers. Final Determination at 2. Two-hundred-seventeen delivery customers are served through this office. The Jordanville post office, an EAS-13 level facility, has retail access hours of 8:30 a.m. to 12:30 p.m. and 1:30 p.m. to 4:45 p.m., Monday through Friday, and 8:30 a.m. to 11:45 a.m. on Saturday. Lobby access hours are 8:00 a.m. to 12:30 p.m. and 1:00 p.m. to 5:00 p.m., Monday through Friday, and 8:00 a.m. to 12:00 p.m. on Saturday. *Id.*

The postmaster position became vacant on January 2, 2009, when the Jordanville postmaster retired. An officer-in-charge (OIC) was installed to operate the office. Retail transactions average 29 transactions daily (34 minutes of retail workload). Office receipts for the last 3 years were \$31,647 in FY 2008; \$34,667 in FY 2009; and \$37,162 in FY 2010. There are no meter customers and one permit customer. *Id.* By closing this post office, the Postal Service anticipates savings of \$48,071 annually. *Id.* at 7.

After the closure, retail services will be provided by the Richfield Springs post office located approximately 5 miles away.⁹ *Id.* at 2. Delivery service will be provided by rural carrier through the Richfield Springs post office. The Richfield Springs post office is an EAS-18 level office, with retail hours of 8:30 a.m. to 12:30 p.m. and

⁷ Petition for Review received from the Concerned Citizens of Jordanville, New York regarding the Jordanville, New York post office 13361, October 18, 2011.

⁸ Reply Brief of the Public Representative, December 1, 2011 (PR Reply Brief).

⁹ MapQuest estimates the driving distance between the Jordanville and Richfield Springs post offices to be approximately 5.2 miles (8 minutes driving time).

2:00 p.m. to 5:00 p.m., Monday through Friday, and 9:00 a.m. to 12:00 p.m. on Saturday. Two-hundred-twenty-three post office boxes are available. The Postal Service will continue to use the Jordanville name and ZIP Code. *Id.* at 7, Concern No. 2.

IV. PARTICIPANT PLEADINGS

Petitioner. Petitioner opposes the closure of the Jordanville post office. Petitioner contends that the post office is a vital part of the community and closing it would adversely impact the Jordanville community. Petition at 1. She asserts that traveling more than 5 miles to the Richfield Springs post office would be a hardship in inclement weather. *Id.* She is also concerned that the level of service provided by a rural carrier would be inferior to that provided by a post office. *Id.*

Postal Service. The Postal Service argues that the Commission should affirm its determination to close the Jordanville post office. Postal Service Comments at 10. The Postal Service believes the appeal raises two main issues: (1) the effect on postal services; and (2) the impact on the Jordanville community. *Id.* at 1. The Postal Service asserts that it has given these and other statutory issues serious consideration and concludes that the determination to discontinue the Jordanville post office should be affirmed. *Id.* at 1-2.

The Postal Service explains that its decision to close the Jordanville post office was based on several factors, including:

- the postmaster vacancy;
- a minimal workload and declining office revenue;
- a variety of other delivery and retail options (including the convenience of rural delivery and retail service);
- little recent growth in the area;
- minimal impact on the community; and
- expected financial savings.

Id. at 4. The Postal Service contends that it will continue to provide regular and effective postal services to the Jordanville community when the Final Determination is implemented. *Id.*

The Postal Service also asserts that it has followed all statutorily required procedures and has addressed the concerns raised by Petitioner regarding the effect on postal services, effect on the Jordanville community, economic savings, and effect on postal employees. *Id.* at 1-2.

Public Representative. The Public Representative asserts that in making its Final Determination, the Postal Service substantially complied with the notice and posting requirements of 39 U.S.C. § 404(d). PR Reply Brief at 6. He contends that the Postal Service considered the impact the closing of the post office would have on service and the Jordanville community. *Id.* at 6-7. He notes that revenue at the Jordanville post office over the last 3 years has grown consistently each year, but the Postal Service does not explain this growth in the Administrative Record. *Id.*

The Public Representative states that the Postal Service considered the effect of the closure on employees and its economic savings, but questioned whether it would realize the full amount of the estimated cost savings. *Id.* at 7. He contends that the Postal Service's economic savings estimate is flawed in that it does not consider whether there will be lost revenue from the 59 post office boxes rented, and it does not take into account the one-time cost of decommissioning the post office. *Id.* at 8. However, the Public Representative concludes that the Postal Service followed all applicable procedures, that the decision to close the Jordanville post office is supported by substantial evidence, and is therefore not arbitrary and capricious. *Id.* at 1.

V. COMMISSION ANALYSIS

The Commission's authority to review post office closings is provided by 39 U.S.C. § 404(d)(5). That section requires the Commission to review the Postal Service's determination to close or consolidate a post office on the basis of the record that was before the Postal Service. The Commission is empowered by section

404(d)(5) to set aside any determination, findings, and conclusions that it finds to be (a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (b) without observance of procedure required by law; or (c) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.

A. Notice to Customers

Section 404(d)(1) requires that, prior to making a determination to close any post office, the Postal Service must provide notice of its intent to close. Notice must be given 60 days before the proposed closure date to ensure that patrons have an opportunity to present their views regarding the closing. The Postal Service may not take any action to close a post office until 60 days after its determination is made available to persons served by that post office. 39 U.S.C. § 404(d)(4). A decision to close a post office may be appealed within 30 days after the determination is made available to persons served by the post office. 39 U.S.C. § 404(d)(5).

The record indicates the Postal Service took the following steps in reaching its Final Determination. On April 18, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the Jordanville post office. Final Determination at 2. A total of 61 questionnaires were distributed and 88 were returned. On May 4, 2011, the Postal Service held a community meeting at Town Hall, Route 167, Jordanville, New York to address customer concerns. Thirty-three customers attended. *Id.*

The Postal Service posted the proposal to close the Jordanville post office with an invitation for comments at the Jordanville and Richfield Springs post offices from May 17, 2011 through July 18, 2011. *Id.* at 2. The Final Determination was posted at the same two post offices from September 9, 2011 through October 11, 2011. *Id.* at 1.

The Postal Service has satisfied the notice requirements of 39 U.S.C. § 404(d).

B. Other Statutory Considerations

In making a determination on whether or not to close a post office, the Postal Service must consider the following factors: the effect on the community; the effect on postal employees; whether a maximum degree of effective and regular postal service will be provided; and the economic savings to the Postal Service. 39 U.S.C. § 404(d)(2)(A).

Effect on the community. Jordanville, New York is an unincorporated community located in Herkimer County, New York. Administrative Record, Item No. 16. The community is administered politically by the Town of Warren. Police protection is provided by the New York State Police. Fire protection is provided by Richfield Springs Volunteer Fire Department. The community is comprised of retirees, the self-employed, those who work in local businesses or commute to work in nearby communities, and has a large Russian population. Final Determination at 7. Residents may travel to nearby communities for other supplies and services. See *generally* Administrative Record, Item No. 22 (returned customer questionnaires and Postal Service response letters).

As a general matter, the Postal Service solicits input from the community by distributing questionnaires to customers and holding a community meeting. The Postal Service met with members of the Jordanville community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the Jordanville post office, customers raised concerns regarding the effect of the closure on the community. Their concerns and the Postal Service's responses are summarized in the Final Determination. Final Determination at 2.

Petitioner raises the issue of the effect of the closing on the Jordanville community. Petition at 1. She contends that the post office is a vital part of the community. *Id.* The Postal Service states that it considered the issue and explains that community identity, "derives from the interest and vitality of its residents," and that the

residents of Jordanville will continue to receive regular and effective postal services. Postal Service Comments at 7-8.

The Public Representative states that the Postal Service's Final Determination considered the effect the closing of the Jordanville post office would have on the community. PR Reply Brief at 6.

The Postal Service has adequately considered the effect of the post office closing on the community as required by 39 U.S.C. § 404(d)(2)(A)(i).

Effect on employees. The Postal Service states that the Jordanville postmaster retired on January 2, 2009, and that an OIC has operated the Jordanville post office since then. Final Determination at 2. It asserts that after the Final Determination is implemented, the temporary OIC will either return to her position at a nearby post office, or may be separated from the Postal Service, but no other Postal Service employee will be adversely affected. *Id.* at 7.

The Postal Service has considered the possible effects of the post office closing on the OIC and has satisfied its obligation to consider the effect of the closing on employees at the Jordanville post office as required by 39 U.S.C. § 404(d)(2)(A)(ii).

Effective and regular service. Petitioner raises the issue of the impact of the closure on effective and regular service. Petition at 1. She contends that traveling more than 5 miles to the Richfield Springs post office would be a hardship in inclement weather and is concerned that the level of service provided by a rural carrier would be inferior to that provided by a post office. *Id.*

The Postal Service contends that it has considered the Petitioner's concerns and the customers will continue to receive regular and effective service. Postal Service Comments at 5-7. It asserts that customers of the closed Jordanville post office may obtain retail services at the Richfield Springs post office and that the Richfield Springs post office will also provide rural carrier delivery service. Final Determination at 2. In addition, Jordanville post office box customers may obtain Post Office Box service at the Richfield Springs post office, which has 223 boxes available. *Id.*

For customers choosing not to travel to the Richfield Springs post office, the Postal Service explains that retail services will be available from the carrier. *Id.* at 9. The Postal Service adds that it is not necessary to meet the carrier for service since most transactions do not require meeting the carrier at the mailbox. *Id.*

The Postal Service has considered the issues raised by customers concerning effective and regular service as required by 39 U.S.C. § 404(d)(2)(A)(iii).

Economic savings. The Postal Service estimates total annual savings of \$48,071. *Id.* at 7. It derives this figure by summing the following costs: postmaster salary and benefits (\$36,381) and annual lease costs (\$6,600), minus the cost of replacement service (\$7,098). *Id.*

The Public Representative concludes that the Postal Service considered the economic savings achieved by closing the Jordanville post office. PR Reply Brief at 7. However, he contends that the Postal Service will not realize the full estimated amount because the Jordanville post office was managed by an OIC at a lower cost than a postmaster, and the OIC may return to work at another facility, in which case the Postal Service will not save the cost of the OIC's compensation. *Id.*

The Public Representative also asserts that the Postal Service's economic savings estimate is further flawed in that it does not consider whether there will be lost revenue from the 59 post office boxes rented and that it does not take into account the one-time cost of decommissioning the post office. *Id.* at 8. Finally, the Public Representative questions why the Postal Service does not discuss the revenue growth from FY 2008 through FY 2010. *Id.* at 6-7.

The Public Representative nevertheless concludes "that in all probability there will be some net savings from closing the Jordanville post office" and concludes that the Final Determination should be affirmed. *Id.* at 8.

The Commission has previously stated that the Postal Service should not compute savings based on compensation costs unless there is a reasonable assurance that closing will actually eliminate those costs. The Jordanville post office postmaster retired on January 2, 2009. Final Determination at 2. The post office has since been

staffed by a non-career OIC who, upon discontinuance of the post office, may be separated from the Postal Service. The postmaster position and the corresponding salary will be eliminated. See, e.g., Docket No. A2011-67, United States Postal Service Comments Regarding Appeal, October 24, 2011, at 13; Docket No. A2011-68, United States Postal Service Comments Regarding Appeal, November 2, 2011, at 10. Furthermore, notwithstanding that the Jordanville post office has been staffed by an OIC for over 2 years, even assuming the use of the presumably lower OIC salary, the Postal Service would have satisfied the requirements of section 404(d)(2)(A)(iv).

The Postal Service has satisfied the requirement that it consider economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

VI. CONCLUSION

The Postal Service has adequately considered all requirements of 39 U.S.C. § 404(d). Accordingly, the Postal Service's determination to close the Jordanville post office is affirmed.

It is ordered:

The Postal Service's determination to close the Jordanville, New York post office is affirmed.

By the Commission.

Shoshana M. Grove
Secretary

DISSENTING OPINION OF CHAIRMAN GOLDWAY

The Administrative Record is inaccurate with regard to economic savings. As such, the Postal Service has not adequately considered economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

The Postal Service argues that savings should be calculated based on a full-time postmaster's salary. Yet the Jordanville post office has been operated by an officer-in-charge (OIC) since the former postmaster retired on January 2, 2009. On the one hand, the Postal Service argues that the effect on employees of this closing will be minimal; yet on the other hand, it argues that the savings should be calculated using a full-time position.

There are inherent and blatant contradictions in the Administrative Record that must be corrected on remand.

Furthermore, the Administrative Record does not account for the loss of existing post office box revenue in the economic savings analysis.

It is not the statutory responsibility of the Commission to correct the record for the Postal Service and certainly not to make its own surmise about what and/or whether there would be savings if accurate data was in the record. Therefore, the decision to close should be remanded to the Postal Service to correct the record and present a more considered evaluation of potential savings.

In addition, the Administrative Record describes a steady increase in revenue over the last three years, indicating potential for growth from area businesses. This increase in revenue affirms the Petitioner's argument that the Postal Service did not adequately consider the impact on the community, and contradicts the Postal Service's list of reasons to consider closing the post office which includes a statement that there is declining revenue. Interest in the use of the mail in a community and the potential for

growth should be considered as part of both the economic impact and the impact on the community. Therefore, the Postal Service did not adequately consider the impact of the closure on the community as required by 39 U.S.C. § 404(d)(2)(A)(i).

The Commission has just issued its Advisory Opinion in Docket No. N2011-1, pointing to the fact that its closing plans do not optimize the network. In the case of Jordanville, the failure to undertake actual retail network optimization is exhibited by the Postal Service selecting for closure a post office with strong revenue, and presenting the community with the option of a receiving post office that might also close. This proposed closing should be reconsidered, and based on growing revenue, Jordanville appears to be a candidate for inclusion in an optimal retail network.

Moreover, the Postal Service recently announced a moratorium on post office closings. It is confusing and perhaps unfair to require some citizens whose post offices have received a discontinuance notice as of December 12, 2011 to gather evidence and pursue an appeal to the Commission, while others whose post offices were in the review process, but had not yet received a discontinuance notice by December 12, 2011 have the respite of a 5-month moratorium.

The citizens of Jordanville, New York and their concerns regarding the loss of a neighborhood post office should be afforded the same opportunity to be heard and considered as the citizens of the approximately 3,700 post offices fully covered by the moratorium.

Ruth Y. Goldway

DISSENTING OPINION OF VICE CHAIRMAN LANGLEY

The Postal Service did not adequately comply with 39 U.S.C. § 404.

Under section 243 of the Postal Service's Handbook PO-101, August 2004, if a decision is made to continue proceeding with a discontinuance investigation, the Operations manager must "then develop a questionnaire and send it to customers for additional information and comments."

The Jordanville post office provides service to 59 post office box holders and 217 delivery customers. Final Determination at 2. However, the Final Determination states that "61 questionnaires were distributed to delivery customers of the Jordanville post office." *Id.* It appears that 215 customers were not sent the questionnaire, which denied them the opportunity to present their views on the Administrative Record.

In addition, the Postal Service did not adequately consider the economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv). The Postal Service should take into consideration that a non-career postmaster relief (PMR) has been in charge of this facility since January 2009, not an EAS-13 postmaster, and reflect the PMR's salary and benefits in its cost savings analysis. As a government entity, the Postal Service should ensure that its cost/benefit analysis accurately identifies capturable cost savings and does not overstate savings.

Although the Postal Service determines how it will allocate its resources across its network, I wish to note that in FY 2010, the Jordanville post office realized a 7.2 percent increase in revenues over FY 2009 and a 17.4 percent increase in revenues over FY 2008.

I find that the Postal Service's decision to discontinue operations at the Jordanville post office is unsupported by evidence on the Administrative Record and thus, should be remanded.

Nanci E. Langley